

ALASKA COASTAL POLICY COUNCIL

RESOLUTION NO. 13, AS AMENDED

USES OF STATE CONCERN

MAY 22, 1986

WHEREAS, the Legislature declared in the Alaska Coastal Management Act that there are particular land and water uses which are of State concern, and which should not be arbitrarily or unreasonably restricted or excluded as a result of the requirements of district coastal management programs (AS 46.40.060 and .070); and

WHEREAS, the Legislature provided a means for the Council to further define uses of State concern within specific areas of the coast (AS 46.40.040(4)); and

WHEREAS, the Legislature defined the term "use of State concern" generally, and authorized the Council to further define the term (AS 46.40.210(6)); and

WHEREAS, actual declaration of uses of State concern will occur either in the context of Council approval of district programs or by additional Council regulations if deemed necessary at some future time;

NOW, THEREFORE, BE IT RESOLVED by the Alaska Coastal Policy Council that:

1. Districts should assure in their coastal programs that none of the below listed uses of State concern are excluded or restricted unless the district provides evidence of compliance with the provisions in Section 46.40.070(c) of the Alaska Coastal Management Act; and

2. District coastal programs should contain provisions to assure that unanticipated proposals for uses of State concern which may arise in the future (e.g., after the district program has been approved) can be given consideration in the district program through the amendment process; and

3. Should an unanticipated use of State concern be proposed in a district with an approved coastal program, and if such use would be excluded or restricted by the approved program, the Council, after consultation with affected and interested parties, will request the district to open its coastal program for consideration of the use through the program amendment process; and

4. Districts are urged to make early contact with State agencies, federal agencies, adjacent local governments, and the private sector to obtain the information and projections for uses of State concern so that such uses may either be accommodated in

the district programs, or so that the districts may learn of those instances where proposed provisions of their programs will exclude or restrict uses of State concern; and

5. State and federal agency participants of the ACMP are urged to work as closely with the districts as possible so as to provide the information and projections that the districts will need to accommodate uses of State concern; and

6. Based upon information and analysis received to date, the following are categories and criteria for uses of State concern. This list is not exclusive, and the Council is free to declare unlisted uses to be uses of State concern if such uses should appear in the context of approving a district coastal program. This list is intended to be instructive to the districts and State agencies in carrying out their ACMP responsibilities. The Council is empowered in AS 46.40.210(6) to define the extent of uses of State concern. This list and resolution represent the Council's effort to do so on a general level. Actual definition of uses of State concern on a site-specific basis will occur in the process of reviewing and approving district coastal programs.

John Crawford Co-Chairman

Robert L. Meyer Co-Chairman

Dated this 22 day of May, 1986

Attest: Cynthia Meyer

ALASKA COASTAL POLICY COUNCIL
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May 22, 1986

USES OF STATE CONCERN

COASTAL DEVELOPMENT

I. The Siting of Major Energy Facilities

The siting of major facilities is a use of State concern when it occurs in, or in close proximity to, the coastal area and when it meets one or more of the following criteria:

- A. A facility required to support energy operations on lands leased for exploration or production purposes;
- B. A facility used to produce, convert, process, or store energy resources or marketable products;
- C. A facility used to transfer, transport, import, or export energy resources or marketable products;
- D. A facility used for in-State energy use; or
- E. A facility used primarily for the manufacture, production, or assembly of equipment, machinery, products, or devices which are involved in any activity described in A. through E. of this section.

A major energy facility is a facility which is determined by appropriate State agencies to be likely to cause significant environmental or economic impacts beyond a single coastal resource district. Criteria for such a determination will include size of proposed facility, production and distribution, environmental factors, capital costs, and employment.

Major energy facilities include, but are not limited to, marine service bases and storage depots, pipelines and rights-of-way, drilling rigs and platforms, petroleum or coal separation, treatment, or storage facilities, liquid natural gas plants and terminals, oil terminals and other port development for the transfer of energy products, refineries and associated facilities, petrochemical plants, hydroelectric projects, other electric generating plants, transmission lines, uranium enrichment or nuclear fuel processing facilities, and geothermal facilities.

II. Large Scale Industrial and Commercial Developments

The siting of industrial or commercial development activities is a use of State concern when these activities which

are dependent on a coastal location and which, because of their magnitude, the magnitude of their effect or their cumulative effect on the economy of the State or the surrounding area, are reasonably likely to present issues of more than local significance. Activities to be considered in this regard are:

- A. Processing, manufacturing, transportation and marketing of products from the mineral resources including fuel and nonfuel minerals and industrial materials;
- B. Enhancement projects for, harvest and processing of, and manufacturing and marketing of products from fish, fish by-products, seafood, marine mammals, or other living marine resources;
- C. National forests, State forests, forest reserves and forest management projects, harvest and processing of and manufacturing and marketing of products from timber; and
- D. Agricultural development projects, farming, grazing, food or food by-products processing, and manufacturing and marketing of products from agricultural resources.

III. Transportation Facilities

Capital projects that have Statewide, interregional, and interdistrict uses which impact the State's transportation system including highways, roads, trails, railroads, pipelines, airports (for land and sea planes), docks, and harbors are uses of State concern.

IV. Navigational Facilities and Systems

The siting, construction and maintenance of navigational facilities and systems, including U.S. Coast Guard Stations, channel markers, beacons, lighthouses, LORAN and radar facilities, navigation aids for aviation, and other aids to navigation, both onshore and offshore are a use of State concern.

V. New Community Development

All "development cities" (as defined in AS 29.18.220-460) which are located in a coastal area, and new or relocated coastal area communities (not classified as development cities) which would confer significant environmental, social, cultural or economic benefits or burdens beyond a single coastal resource district are uses of State concern.

V. Defense and Security Facilities

The siting of national defense and related facilities which are dependent on coastal locations, including military bases and installations and associated facilities, aerospace facilities, intelligence, communications and related facilities is a use of State concern.

RENEWABLE AND NONRENEWABLE RESOURCES

I. Management and Enhancement of Fish and Wildlife Resources

The management of fish and wildlife populations through the establishment, utilization and maintenance of habitat and species enhancement projects and research and monitoring activities in accordance with State, and federal regulations, Title 16 of the Alaska State Statutes and appropriate federal statutes is a use of State concern. These uses include:

- A. All fish hatcheries and other aquaculture facilities including State operated and financed, and privately financed aquaculture facilities;
- B. All enhancement programs including those on federal lands which the Department of Fish and Game reviews under cooperative management agreements with Federal agencies;
- C. All habitat enhancement projects which take place on State lands;
- D. All monitoring of fish and wildlife populations and all research of fish and wildlife populations conducted by the State;
- E. All fish and wildlife populations under federal jurisdiction including marine mammals, migratory bird species, bald and golden eagles, endangered species and their habitats;
- F. All fish and wildlife habitats which are given special protection through acts or treaties; and
- G. Habitats important to propagation and continued maintenance of commercial marine fisheries resources and managed by the federal government.

II. Conservation of Established State Game Refuges, Sanctuaries and Critical Habitats

The conservation of legislative designated State game refuges, sanctuaries and critical habitat areas is a use of State concern.

III. Conservation of Anadromous Fish Waters

The conservation of anadromous fish waters in accordance with Sections 16.05.870 and 16.10.010 of the Alaska State Statutes is a use of State concern.

IV. Harvest of Fish and Wildlife

The lawful harvest of all fish in the State and its contiguous waters as determined by the Board of Fish, and the lawful harvest of all wildlife in the State as determined by the Board of Game in accordance with State regulations and Title 16 of the Alaska State Statutes are uses of State concern. These uses include subsistence, commercial and sport harvest.

Harvest means the taking, pursuing, hunting, fishing, trapping or in any manner disturbing, capturing or killing or attempting to take fish and game.

V. Disposition of Land and Waters

The utilization, development, and conservation of all land and waters belonging to the State, in accordance with State regulations and Titles 38 and 46 of the Alaska Statutes are uses of State concern. These uses include:

- A. Selection, acquisition, classification, zoning in the unorganized borough and issuance of permits or leases on available State lands including tide and submerged lands;
- B. Management, inspection and control of State lands and improvements on them which belong to the State;
- C. Leasing, purchasing, or otherwise acquiring (including condemning by declaration of taking), easements, or other interests in land in this State for the purpose of utilization or granting leases of the land, easements, or interests for pipeline right-of-way purposes;
- D. Reservation of easements for public access along any water affected by tidal action or alternate upland access routes;
- E. Sales, grants, exchanges, conveyances or other disposal

of available lands, resources, property, or interests in them; and

- F. Determination and adjudication of rights, appropriation, and distribution of surface or subsurface waters wherever occurring in a natural state.

VI. Disposition of Forest Resources

The utilization, development, and conservation of all forest resources in accordance with State regulations and Titles 38 and 41 of the Alaska Statutes are uses of State concern. These uses include:

- A. Reforestation, forest management, harvest, processing, and disposal of timber and timber products or by-products;
- B. Conservation and management of State forests and forest reserves; and
- C. Activities providing for the protection of forested lands in the State from fire and other destructive agents.

VII. Resource Development of Federal Lands

All resource development, including activities and siting of facilities related to timber harvest, mining, oil and gas development, electric power production, fisheries, agriculture, road and airstrip construction, recreational facilities, or other industrial, commercial, residential, or public development on federal lands or land underlying federal waters are uses of State concern.

VIII. Disposition of Energy Resources

The utilization, development, and conservation of all energy resources belonging to the State, in accordance with State regulations and Titles 38 and 41 of the Alaska Statutes are uses of State concern. These uses include:

- A. Exploration, extraction, processing and disposal of coal, oil shale, crude oil, natural gas, and geothermal resources;
- B. Transportation of these resources or their products by pipeline toward markets both in and out of State;
- C. Utilization of these resources for power generation;

- D. Issuance of permits or leases on State land for the above State activities; and
- E. Acquisition of land in the State for the purpose of developing easements for pipeline right-of-way purposes.

IX. Disposition of Minerals and Materials

The utilization, development, and conservation of all minerals and materials in accordance with State regulations and Titles 38 and 41 of the Alaska Statutes are uses of State concern. These uses include:

- A. Exploration, extraction, processing, and disposal of non-fuel minerals such as aluminum, asbestos, chromium, cobalt, copper, gold, iron, lead, manganese, molybdenum, nickel, phosphate, potassium, silver, sodium, sulphur, or zinc;
- B. Exploration, extraction, processing, and disposal of materials such as clay, sand, gravel, rock, or pumice; and
- C. Issuance of permits or leases on State land for the above stated activities.

Further, utilization, development, conservation, and transportation of mineral and industrial materials located on private or federal lands which, based on recent environmental studies, resource inventories, and current economic indicators, are determined by appropriate State and federal agencies to confer, or be likely to confer, significant environmental or economic benefits, or burdens beyond a single coastal resource district by virtue of their physical size, quantity of production, capital cost to develop, employment generated, water use and/or residuals generated are uses of State concern.

X. Agricultural Development and Protection

The promotion and development of the agricultural industry within the State and activities provided for public protection against fraud, disease, and spoilage, in accordance with State regulations and Titles 3 and 33 of the Alaska Statutes are uses of State concern. These uses include:

- A. Experimental work for the purpose of promoting and developing the agricultural industry within the State including such fields as horticulture, dairying, cattle

raising, fur farming, etc.;

- B. Entry into the State and the transportation, sale, or use inside the State of plants, seeds, vegetables, fruits and berries, nursery stock, animal feeds, remedies and mineral supplements, fertilizers, and agricultural chemicals in order to prevent the spread of pests, diseases, or toxic substances injurious to the public interest, and to protect the agricultural industry against fraud, deception, and misrepresentation;
- C. Inspection of food animals and poultry and derivative food products, to protect the public against fraud, disease, and spoilage; and
- D. Issuance of permits, leases or deeds on, and clearing or draining of State land for the purpose of agricultural development.

XI. Management of State Parks, Waysides, and Recreational Areas

The acquisition, development, and maintenance of State parks, waysides, and recreational areas in accordance with State regulations and Title 41 of the Alaska Statutes are uses of State concern. These uses include:

- A. Development of a continuing plan for the conservation and maximum use in the public interest of the scenic, historic, archeologic, scientific, biological, and recreational resources of the State;
- B. Planning for and development of a system of State parks and recreational facilities including the establishment of a system of wilderness trails and campsites;
- C. Acquisition of land, necessary, suitable, and proper for roadside, picnic, recreational, or park purposes including recreational beaches;
- D. Control, development, and maintenance of State parks recreational areas and acquisition, care, control, supervision, improvements, development, extension, and maintenance of public recreational lands; and
- E. Establishment of rules and regulations governing the use and designating incompatible uses within the boundaries of State parks and recreation areas to protect the property and preserve the peace.

XII. Management of State Historic, Prehistoric, and Archeological Resources

The utilization, conservation, and preservation of historic, prehistoric, and archeological resources on land owned or controlled by the State, in accordance with State regulations and Title 41 of the Alaska Statutes are uses of State concern. These uses include:

- A. Disposition of artifacts and other items of these resources to local cultural groups for study and display;
- B. Issuance of permits for the investigation, excavation, gathering, or removal from the natural state of any historic, prehistoric, or archeological resources of the State;
- C. Designation of a State monument, or historic site for proper access, protection, and management of any particular historic, prehistoric, or archeological structure, deposit, site, or other object of scientific or historic interest on land owned or controlled by the State or land in private ownership with the written consent of the owner; and
- D. Acquisition of real and personal properties that have statewide historic, prehistoric, or archeological significance by gift, purchase, devise, bequest, or eminent domain.

AIR, LAND, AND WATER QUALITY

I. Management of Air Quality

Conservation and maintenance of air quality in compliance with the Alaska Air Quality Standards (18 AAC 50.020) is a use of State concern.

Discussion:

In Alaska there are air quality problems relating to motor vehicles, land clearing, population growth, and other basic "land use" activities. Motor vehicle uses have caused high carbon monoxide concentrations in Anchorage; land clearing and gravel roads result in very dusty conditions during dry weather; the population growth results in more home heating and general area-wide pollutant emissions. The ultimate solutions to the control of pollutants generated by area-wide activities lie with individual citizens and local governments. Enforcement of existing zoning laws,

enactment of more comprehensive zoning and land use ordinances, adequate transportation planning, adequate street cleaning, and maintenance programs are all needed to help control the area-wide pollutant problems. State and federal agencies can provide air monitoring data to define the problems and offer technical assistance to help with pollutant abatement, but most actions needed can only be taken if there is public approval at the local level.

Guidelines:

- A. Implementation of effective transportation plans is the only truly effective, long-range means of controlling transportation related pollutants. Several strategies may be employed, including:
 - 1. Parking management for reduction of traffic congestion and cold-start emissions;
 - 2. Transportation efficiency can be improved through efforts such as car pooling incentive programs; and
 - 3. Transit system operation, which reduce traffic and pollutant emissions. Mass transit offers an alternative to private motor vehicle use and increases the viable options available to agencies developing transportation plans.
- B. Effective zoning and construction regulations can require paving watering/oiling of dusty areas, revegetation of disturbed areas; shrub or tree planting around commercial developments can reduce the nuisance of fugitive dust emissions;
- C. Street sweeping, road paving, watering or oiling unpaved areas can be effective control measures; and
- D. State agencies, local air quality control agencies, and local governments can require that earth moving, gravel handling, rock crushing, and other major fugitive dust generating operations minimize the generation of nuisance dust.

II. Management of Water Quality

Conservation and maintenance of water quality in compliance with the Alaska Water Quality Standards (18 AAC 70) is a use of State concern.

Discussion:

Solid and liquid waste disposal in Alaska's coastal areas must be carefully planned to avoid direct and significant contamination of public water supplies or coastal waters from which edible resources are harvested. Concern should be expressed when there is a significant probability that uses in, on, under, or adjacent to a body of water would: cause the water to be hazardous to human health; significantly affect or reduce the biological population of those waters or when the discharges into those waters would preclude other legitimate or authorized uses of those waters. Leachate percolation into surface and groundwater, surface runoff, and discharge of oiled or chlorinated wastewater effluents to productive marine waters or public water supplies represent examples of such areas of concern. One of the biggest sources of water pollution in Alaska has been the discharge of raw or inadequately treated sewage from communities. Improperly treated and disposal of sewage can have significant adverse effects upon the public health and welfare.

Guidelines:

- A. "Honey buckets" and other liquid wastes should not be emptied into fresh waters where the potential for significant contamination of public water supplies exists. Development of a central collection/disposal site is recommended to avoid diffuse waste disposal and attendant public health problems;
- B. Preferably, sewage system outfalls should be sited in areas with rapid flushing, minimal plant and animal populations, and low recreational use;
- C. Communities should consider the benefits of protecting the quality of the public water supply source. Development in the upland watersheds from which communities draw surface and/or groundwaters should be carefully reviewed for potential impact on the quantity and quality of the public water supply. Greater cost to the community in terms of increased need for water treatment, storage, and distribution should be considered;
- D. Consider leaving vegetated buffer areas along shorelines and adopting minimum setbacks for buildings which will help maintain water quality and aesthetics and insure access to the waterfront;
- E. Vegetated buffer strips, of a width sufficient to filter surface runoff and maintain natural water temperatures, should be preserved along all rivers,

lakes, and streams in the coastal zone. Greenbelt areas along stream courses are strongly encouraged;

- F. Storage or production of materials which are toxic to aquatic life should avoid floodplains unless special precautions are taken to reduce the risk of spillage to a minimum; and
- G. Nonpoint sources of water pollution such as roadways, parking lots, and housing developments should avoid discharging untreated storm water into streams and lakes known to be important to community water supply or fish populations. The use of settling ponds and vegetated seepage areas is encouraged. The retention of natural wetlands to serve as floodwater receiving areas can be beneficial.

III. Management of Solid Waste

Assurance of proper solid waste disposal in compliance with requirements set forth in 18 AAC 60.050 is a use of State concern.

Discussion:

Improperly disposed of solid wastes can have adverse health effects on both human and other populations of the natural system. Ground and surface waters may become polluted, with serious implications to public health if these waters are also utilized as a drinking water supply. Although the problems inherent in improper solid waste disposal are frequently recognized, most Alaskan communities do not have sufficient resources to establish approved systems. As stated in the congressional findings of the Solid Waste Disposal Act, "while the collection and disposal of solid waste should continue to be primarily the function of State, regional, and local agencies, the problems of waste disposal as set forth above have become a matter national in scope and in concern and necessitate federal action through financial and technical assistance and leadership in the development, demonstration, and application of new and improved methods and processes to reduce the amount of waste and unsalvageable materials and to provide for proper and economical solid waste disposal practices," (section 1002(a)(4)). The State's interest and objective in assessing and coordinating the development of solid waste disposal facilities is the establishment of community development and expansion in an environmentally sound manner. Poorly planned and operated solid waste disposal facilities usually increase the economic and administrative burden placed upon State government and threaten the

quality of the State's air, land, and water resources.

Guidelines:

- A. Communities should identify the local entity responsible for the collection and/or disposal of solid waste. Where no entity is found to have the responsibility for solid waste management the community should explore the benefit of assuming the responsibility itself.
- B. Solid waste disposal areas should be located so as to prevent the pollution of coastal waters. Vital habitat areas should not be used as solid waste disposal sites.
- C. Sites for solid waste disposal should be out of the path of natural drainageways, above the lower coastal floodplain, and away from surface water bodies.
- D. To avoid leachate pollution, the solid waste disposal site should be located well above the groundwater table, and where soils are of optimum permeability and texture. The water pollution potential of leachate varies with the characteristics of the leached refuse, the distance it travels to, and with the groundwater, the characteristics of the soil it passes through. All these factors are site-specific and should be considered together.

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